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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**WESTERN DIVISION LOS ANGELES**

INTERDIGITAL, INC., INTERDIGITAL  
VC HOLDINGS, INC., INTERDIGITAL  
MADISON PATENT HOLDINGS, SAS,  
AND INTERDIGITAL CE PATENT  
HOLDINGS, SAS,

Plaintiffs,

v.

THE WALT DISNEY COMPANY, DISNEY  
MEDIA AND ENTERTAINMENT  
DISTRIBUTION LLC, DISNEY DTC LLC,  
DISNEY STREAMING SERVICES LLC,  
DISNEY ENTERTAINMENT & SPORTS  
LLC, DISNEY PLATFORM  
DISTRIBUTION, INC., BAMTECH, LLC,  
HULU, LLC, AND ESPN, INC.,

Defendants.

Case No. 2:25-cv-00895-WLH-BFM

**PLAINTIFFS' REPLY BRIEF  
IN SUPPORT OF MOTION TO  
DISMISS COUNTERCLAIMS**

Judge: Hon. Wesley L. Hsu  
Hearing: May 30, 2025, 1:30 pm  
Courtroom: 9B

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1           **I. INTRODUCTION**

2           Disney’s breach of RAND contract counterclaims, Dkt. 42 ¶¶ 61-88  
3 (“Counterclaims”), fail on the pleadings. Pleading breach of contract requires “the  
4 existence of a contract between Defendants and Plaintiff[s].” Disney’s Opposition,  
5 Dkt. 56 (“Opp.”) at 13. There is no contract between Disney and InterDigital.

6           Instead, Disney claims to be an intended third-party beneficiary of  
7 InterDigital’s RAND contract with the ITU. Counterclaims ¶¶ 56, 62. As explained in  
8 InterDigital’s Motion to Dismiss, Dkt. 54-1 (“MTD”), Disney must plead two key  
9 allegations to plausibly allege that a RAND contract exists and that it is entitled to  
10 enforce that contract as an intended third-party beneficiary. First, Disney must plead  
11 that the Asserted Claims of the Encoding Patents are “essential” to the H.264/H.265  
12 video decoding standards (as defined). MTD at 2-3. Second, Disney must plead that  
13 the accused products implement those standards. *See id.* Disney alleges neither.

14           As to the first requirement, Disney does not plead that the Asserted Claims of  
15 the Encoding Patents are essential: it refuses to “concede essentiality.” Instead, Disney  
16 tries to save its counterclaims by arguing that the declarations InterDigital’s  
17 predecessor submitted to the ITU, together with InterDigital’s infringement  
18 allegations, are sufficient for it to plausibly allege essentiality. Disney is wrong.

19           Listing patents on a declaration—without more—cannot state a claim that the  
20 declared patents are essential. By its terms, the Common Patent Policy applies only to  
21 patent claims that are *both* declared and are *also* “essential” as defined by the Policy.  
22 This means that while any patent can be declared to the ITU, a declared patent is  
23 subject to a contractual RAND commitment only if it is also essential-in-fact. Though  
24 Disney pleads the declaration requirement, it does not plead the essentiality  
25 requirement.

26           Disney’s attempt to rely on InterDigital’s infringement allegations to establish  
27 essentiality also fails. Those allegations do not assert that any Asserted Claim of the  
28 Encoding Patents is essential—in fact, they state that encoding is *not* covered by the

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standards. That the allegations cite and refer to the standards does not establish that InterDigital contends that the asserted encoding-only claims are somehow essential to decoding-only standards. To InterDigital’s knowledge at this early stage of the case, the encoding process Disney uses is proprietary and InterDigital is unaware of public evidence describing that process. So, to date, InterDigital relies on indirect evidence: (1) the output of the encoders (the videos) and (2) the decoding standards to *infer* how Disney’s non-public (and non-standardized) encoders are likely to work. While this indirect evidence amply supports a good faith belief of infringement at this stage of the case, it does not show that the encoding-only patent claims at issue are essential to the decoding-only standards. Stated differently, InterDigital has not asserted, and will not assert, that any Asserted Claim is essential—because they are not. Because neither Disney nor InterDigital alleges that the encoding-only patent claims are essential to the decoding-only standards, Disney has not plausibly pleaded the “essentiality” requirement.

As to the second requirement that the accused products implement those standards, Disney fails to plead that it makes any products that implement the alleged-to-be essential patent claims. Under the Common Patent Policy, only parties who make a product that implements the video-decoding standards can allege they are an intended third-party beneficiary. But Disney does not plead that its accused encoders implement the decoding-only standards—Disney says only that it “invests” in those standards. So, even if a RAND commitment were to exist here (and it does not), Disney has not pleaded facts that would allow it to enforce that commitment as a third-party beneficiary.

Finally, any amendment to the counterclaims would be futile. No set of facts exists that could make the video-decoding standards cover Disney’s video encoding products accused of infringement. Nor is there any amendment that would convert the patent claim language at-issue from covering encoding (not in the standards) to covering decoding (covered by the standards). MTD at 16. That the various

1 deficiencies in Disney’s breach of RAND counterclaims, as pleaded, are incurable is  
2 further evidenced by Disney’s entirely inconsistent admissions to the Brazilian  
3 Court—fatal admissions that it asks this Court to ignore. While considering those  
4 statements is not necessary to resolve the MTD, the Court can and should take notice  
5 of what Disney represented in Brazil.

6 In sum, Disney’s argument in its Opposition cannot cure the incurable:  
7 Disney’s counterclaims fail to state a claim, and no amendment can save them. They  
8 should be dismissed with prejudice.

## 9 II. ARGUMENT

### 10 A. Disney Fails to Plead Essentiality, Dooming Its Counterclaims.

11 The ITU Common Patent Policy is a contract. Under its express terms, only  
12 patent claims that are both (1) declared under the Policy, and (2) are also shown to be  
13 “essential” (as defined) to an ITU Recommendation can be RAND encumbered. MTD  
14 at 4-7 (explaining the ITU contract); Dkt. 54-7 at 42 (explaining the ITU declaration  
15 process); Dkt. 54-8 at 44 (listing the requirements for the ITU RAND contract). If  
16 either condition is unmet, then there is no RAND contract for Disney to enforce.

17 As explained in the MTD, Disney chose to plead its allegations “without  
18 conceding essentiality.” See MTD at 12; Counterclaims ¶ 49 (“*Without conceding*  
19 *that the ’301, ’610, or ’818 Patents are essential to the H.264 or H.265*  
20 *standards* . . . InterDigital is contractually obligated to offer to license at least the  
21 patents it or its predecessors identified to the ITU.”) (emphasis added); Counterclaims  
22 ¶ 52 (same); Counterclaims ¶ 55 (same). Accepting Disney’s pleadings as true, there  
23 are no “essential” patent claims, so there can be no RAND commitment to enforce.

24 Disney admits in its Opposition that it did not plead that there are any  
25 “essential” patent claims. Opp. at 12, 15. Instead, Disney contends that its claims can  
26 proceed despite its purposeful omission because: (1) the Asserted Claims of the  
27 Encoding Patents were included on a declaration form; and (2) InterDigital’s  
28 infringement allegations cite the H.264 and H.265 standards. Opp. at 7, 12. Neither

1 argument is sufficient to state a claim for breach of RAND.

2 **First**, Disney’s suggestion that a RAND commitment can apply “*based solely*  
3 *on* [InterDigital’s predecessor’s] express identification of those patents to the ITU,  
4 *independent of whether they are deemed essential*,” is wrong. *See* Opp. at 12  
5 (emphasis added). The plain language of the declarations<sup>1</sup> and the contract governing  
6 Disney’s counterclaims limits the RAND encumbrance to patent claims “*solely* to the  
7 extent that any such claims *are essential*” as defined in the Common Patent Policy.  
8 Dkt. 57-26 at 941.

9 A declared patent claim that is not *also* “essential” is not RAND encumbered.  
10 In other words, a company could declare a T-Shirt patent to a technical standard (as  
11 some have), but that patent is not RAND encumbered if it is not also shown to be  
12 essential.<sup>2</sup> That InterDigital’s predecessor declared the Encoding Patents, including  
13 the ’301 Patent (which contains only encoding claims), does not—absent a pleading of  
14 essentiality in-fact that Disney does not make—state a claim that the patent claims at-  
15 issue are essential. *See also* Dkt. 57-17 at 261 (Disney admitting that “many patents  
16 that are not really essential are declared as such (the phenomenon called  
17 *overdeclaration*), since there is no inspection of the merits of the declaration of  
18 essentiality”).

19  
20  
21 <sup>1</sup> The Court should consider the declarations as documents incorporated by reference.  
22 *See United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003) (“The defendant may  
23 offer such a document, and the district court may treat such a document as part of the  
24 complaint, and thus may assume that its contents are true for purposes of a motion to  
25 dismiss under Rule 12(b)(6).”). The incorporation by reference doctrine applies  
26 equally to documents referenced in counterclaims. *See Edelman Prods., LLC v.*  
27 *Jordan Serv.*, 2023 WL 424238, at \*1 (C.D. Cal. Jan. 26, 2023).

28 <sup>2</sup> Broad declaration practices are encouraged by many standards development  
organizations. This means that many declared patents may not actually be essential.  
*See, e.g.,* David Edward Cooper et al., *Survey of Mobile Cellular 5G Essentiality Rate*  
(Mar. 2021), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3771397](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3771397) (finding  
that, in the context of 5G patents, only about 8% of declared patents are actually  
essential); *see also* Dkt. 57-17 at 260.



1 Only if a patent claim is *both* declared *and* essential is it RAND encumbered.  
2 Disney knows this—elsewhere in its Counterclaims and its Opposition, it concedes  
3 that the declarations show no more than InterDigital’s agreement that “it would offer  
4 to license on RAND terms any patent(s) and patent application(s) *essential* to  
5 implementing the H.265 standard.” *See* Opp. at 8. Disney cannot ignore the plain text  
6 of the contract at issue and rely instead on erroneous allegations of law—and certainly  
7 not ones it knows are wrong—to maintain its counterclaims. *See, e.g., Metzler Inv.*  
8 *GMBH v. Corinthian Colleges, Inc.*, 540 F.3d 1049, 1064-65 (9th Cir. 2008)  
9 (explaining that courts do not “indulge unwarranted inferences” or “[c]onclusory  
10 allegations of law” to save a complaint from dismissal).

11 Faced with this failure of its claims as pleaded, Disney tries to rely on *TCL*,  
12 *Nokia*, and *Zenith*. These cases provide Disney no refuge. In all three, the patent  
13 owner *both* declared the patent claims at issue *and* also contended that the asserted  
14 patents were actually “essential” (as defined by the policies at-issue). Because the  
15 patent owner in those cases did not dispute “essentiality,” and in fact alleged that the  
16 claims at-issue were “essential,” the claims in those cases were able to survive a  
17 motion to dismiss. *See TCL Commc’ns Tech. Holdings Ltd v. Telefonaktenbologet LM*  
18 *Ericsson*, 2014 WL 12588293, at \*4 (C.D. Cal. Sept. 30, 2014) (allowing claim to  
19 proceed because TCL sufficiently alleged that Ericsson “represented to ETSI and to  
20 TCL that these patents *are standard essential*”) (emphasis added); *Nokia Techs. OY v.*  
21 *HP, Inc.*, 2024 WL 1885683, at \*1-2 (D. Del. Apr. 29, 2024) (noting that “H.264 and  
22 H.265 [are] *video-decoding standards*” and allowing claim to proceed because of  
23 “Nokia’s assertions in the Complaint that the Asserted Patents *are essential*, along  
24 with Nokia’s representations to HP that its patents *were essential*”) (emphasis added);  
25 *Zenith Elecs., LLC v. Sceptre, Inc.*, 2015 WL 12765633, at \*4 (C.D. Cal. Feb. 5, 2015)  
26 (allowing claim to proceed given that, “as Plaintiffs [the patent owner] allege,” the  
27 patents in suit are “essential”).

28 Unlike this trio of cases, InterDigital has never represented to Disney (or

1 anyone) that the Asserted Claims are “essential.” The reason is clear: the encoding-  
2 only claims at-issue *cannot* be essential to the decoding-only H.264 and H.265  
3 standards. With no party asserting essentiality, Disney has not pleaded facts allowing  
4 it to establish that any RAND commitment exists for it to enforce—nor could it. *See*,  
5 *e.g.*, *u-blox AG, et al. v. InterDigital Inc., et al.*, No. 3:23-cv-0002, Dkt. 49 at 2, Dkt.  
6 50 at 29 (S.D. Cal. 2023) (dismissing F/RAND based counterclaims where pleadings  
7 did not allege any patent was essential and no product implemented the standard and  
8 the patents); *Koninklijke KPN N.V. v. Sierra Wireless, Inc.*, 2020 WL 1891454, at \*2  
9 (D. Del. Apr. 16, 2020) (“The threshold question underpinning [Defendant’s]  
10 counterclaims is whether the [patent-in-suit] is standard-essential. Both of the  
11 purported contracts into which [Plaintiff] entered, with ETSI and TIA, do not bind  
12 [Plaintiff] if [the patent-in-suit] is not essential. If there is no contract, then there is  
13 nothing for [Plaintiff] to breach. . .”).

14 ***Second***, Disney argues its counterclaims can proceed despite its failure to plead  
15 essentiality because InterDigital’s infringement allegations reference the H.264 and  
16 H.265 standards. Disney claims that “if Plaintiff asserts that Defendants infringe  
17 Plaintiff’s patents based on Defendants’ use of the H.264 and/or H.265 standards  
18 alone, then those patents must be required by the standard.” Opp. at 9. This is a logical  
19 fallacy and a strawman—InterDigital has not asserted (and will not assert) that Disney  
20 infringes the encoding-only patent claims at-issue based on any use of the decoding-  
21 only H.264 and H.265 standards.

22 Disney ignores that InterDigital’s infringement allegations lead off by  
23 recognizing that encoding—which is what the Asserted Claims cover—is “[a] process  
24 *not specified* in this Specification.” Dkt. 1-4 at 2; Dkt. 1-6 at 2; *see also* Dkt. 1-2 at 2  
25 (citing the H. 264 Recommendation); Dkt. 54-4 at 10 (H.265 Recommendation); Dkt.  
26 54-3 at 5 (H.264 Recommendation). In other words, the allegations begin by stating  
27 the Asserted Claims *cannot* be essential to the H.264 and/or H.265 standards. Rather,  
28 InterDigital alleges Defendants directly infringe the Asserted Patents by selling

1 Accused Instrumentalities “that encode video with technology covered by the  
2 Asserted Patents.” Dkt. 1 ¶¶ 450-458 (emphasis added).

3 Disney faults InterDigital for referencing the video standards at all, but this  
4 argument rings hollow. Disney’s encoding process is non-public, non-standardized,  
5 and proprietary—it is specified by Disney’s source code and other technical  
6 documents not yet available to InterDigital. In the absence of public information  
7 describing how Disney’s encoding process works, InterDigital’s infringement  
8 allegations rely on the encoded videos (i.e., the output of Disney’s propriety encoding  
9 processes) together with reference to the decoding standards to *infer* how Disney’s  
10 non-public (and non-standardized) encoders are likely to work. While this indirect  
11 evidence is more than sufficient to support a good faith belief of infringement at this  
12 stage of the case, it does not show that InterDigital contends that Disney’s accused  
13 encoding process is essential to the decoding-only standards. It also does not show  
14 that InterDigital contends Disney’s encoders somehow “use” the standardized  
15 decoding process.<sup>3</sup>

16 Because there is no pleading of essentiality, no RAND commitment exists here.  
17 And where no facts are pleaded to establish a contractual commitment, Disney cannot  
18 plead performance under that contract (second element), InterDigital’s breach thereof  
19 (third element), or resulting damages (fourth element). *Accord* Opp. at 13 (citing  
20 *Mooney v. Fife*, 118 F.4th 1081, 1099 (9th Cir. 2024)).

21 **B. Disney’s Product-Related Allegations Also Fail to State a Claim.**

22 Even if a RAND commitment existed as to the Asserted Claims of the Encoding  
23 Patents (it does not), Disney must also plead that the accused encoder products  
24

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25 <sup>3</sup> Disney also distorts the burden to allege infringement at the pleading stage. *See, e.g.,*  
26 *Bot M8 LLC v. Sony Corp. of Am.*, 4 F.4th 1342, 1352 (Fed. Cir. 2021) (“A plaintiff is  
27 not required to plead infringement on an element-by-element basis.”). Once Disney  
28 provides its encoding source code in discovery, and other non-public documents  
describing how its encoders work, InterDigital will update its infringement  
contentions to focus particularly on the encoding source code.

1 implement the H.264 or H.265 decoding standards to state a claim that Disney is an  
2 intended third-party beneficiary who can enforce InterDigital’s RAND contract with  
3 the ITU. MTD at 14. Disney did not plead this, creating an independent ground that  
4 requires dismissal of its counterclaims.

5 Disney argues that its counterclaims “specifically allege that its [accused]  
6 products support the standards at issue.” Opp. at 14. The counterclaims cited by  
7 Disney only allege that:

- 8 • “The H.264 and H.265 standards are the most popular methods of coding  
9 video content,” Counterclaims ¶ 31;
- 10 • Disney has invested “millions of dollars in products and services” that  
11 support these standards, *id.*; and
- 12 • Disney has “expended substantial resources in research, development,  
13 and marketing of products and services designed to be compatible” with  
14 the standards. Counterclaims ¶ 56.

15 Even taking these allegations as true, investments of “millions of dollars” in  
16 “research” related to a “popular” (decoding-only) standard is not synonymous with a  
17 pleading that Disney implements the decoding standards in the encoding products  
18 accused of infringement. Under the Common Patent Policy, only third parties who  
19 make a product that implements the video-decoding standards can sufficiently allege  
20 that they are a third-party beneficiary. Because Disney does not plead this, its RAND-  
21 based counterclaims fail.

22 The court’s decision in *u-blox AG, et al. v. InterDigital Inc., et al.*, No. 3:23-cv-  
23 0002, Dkt. 49, 50 (S.D. Cal. 2023), is instructive. There, u-blox—like Disney here—  
24 alleged that it was an intended third-party beneficiary to InterDigital’s FRAND  
25 contract with ETSI (another standard organization). It further asserted—again like  
26 Disney—that this commitment was breached when InterDigital failed to offer a  
27 license on FRAND terms. MTD at 15. U-blox, like Disney, failed to plead that it made  
28 or sold a product that implemented the standard at-issue and that InterDigital’s patents

1 were “essential” under the controlling definition of essentiality. *Id.* The court granted  
2 InterDigital’s motion to dismiss based on u-blox’s deficient pleadings. *Id.* at 16.<sup>4</sup>

3 **C. All of Disney’s RAND-Based Counterclaims Fail Because There Is**  
4 **No Enforceable RAND Contract.**

5 Disney argues that InterDigital failed to “substantively address” any of the other  
6 counterclaims that InterDigital moved to dismiss, including Disney’s counterclaims  
7 for promissory estoppel, breach of duty of good faith, and request for declaratory  
8 judgement. Opp. at 16-17. But all four of the counterclaims at-issue in the MTD  
9 require there to be a RAND commitment that Disney can enforce as a third-party  
10 beneficiary. Thus, they rise and fall together.<sup>5</sup>

11 **D. Amendment Would be Futile Because Disney Cannot Change the**  
12 **Language of the Claims or the Language of the Standards.**

13 Any amendment to Disney’s counterclaims would be futile because there can be  
14 no RAND obligation for the Asserted Claims. MTD at 16. The claims themselves  
15 recite only encoding, but encoding is not specified by the relevant standards, which—  
16 by their plain language—cover only decoding, so no encoding patent claim can be  
17 “essential” or RAND encumbered. MTD at 7-9; Dkt. 54-3 at 5; Dkt. 54-4 at 9-10.

18 In its Opposition, Disney argues—without specifying what the “additional  
19 facts” are—that it “should be permitted to amend [its] Counterclaims to add additional  
20 facts relating to RAND commitments submitted to the standard-setting organizations.”  
21 Opp. at 19. But amendment is futile where “no set of facts can be proved under the  
22 amendment to the pleadings that would constitute a valid and sufficient claim or  
23 \_\_\_\_\_

24 <sup>4</sup> Disney fails to distinguish *u-blox*, apart from stating that it involved “a different  
standard setting organization and different technology.” Opp. at 16.

25 <sup>5</sup> See Counterclaims ¶¶ 69-75 (alleging promissory estoppel based on the ITU  
26 declarations and InterDigital’s alleged RAND commitments); Counterclaims ¶¶ 77-81  
27 (alleging breach of duty of good faith based on the ITU declarations and alleged  
28 RAND-encumbered patents); Counterclaims ¶¶ 83-88 (alleging request for declaratory  
judgment that InterDigital has not complied with its obligations to license the alleged  
RAND-encumbered patents).

1 defense.” *Vinson v. Asset Mgmt. Specialists, Inc.*, 2015 WL 13914966, at \*2 (C.D.  
2 Cal. Sept. 17, 2015). That is certainly the case here: There can be no RAND  
3 obligation for the asserted encoding-only claims, regardless of what additional facts  
4 Disney might inject into its counterclaims.

5 The determination in *Certain Video Capable Elec. Devices*, Inv. No. 337-TA-  
6 1379, at \*102 (Jan. 29, 2025), is instructive. It analyzed the same ITU contract, the  
7 same alleged RAND obligations, and similar encoding-only claim language that is at-  
8 issue here. The ITC ALJ held that a party cannot allege breach of RAND under the  
9 ITU’s Common Patent Policy for encoder patent claims because encoding-only patent  
10 claims are not covered by the H.264 or H.265 standards (which cover only decoding).  
11 MTD at 13.

12 Disney tries to limit the ITC’s holding to “the specific patent claims at issue in  
13 that investigation.” Opp. at 9-10. Yet, Disney ignores that the ITC relied on the  
14 similar encoding-only patent claim language, together with the plain language of the  
15 ITU Common Patent Policy, in making its determination. *See id.* at \*103 (citing the  
16 H.264 standard for the proposition that an “encoding process is ‘not specified’ in the  
17 standard”). The ruling’s reasoning cannot be cabined in the way Disney contends.

18 Any amendment would also be futile because Disney knows that encoding  
19 claims, like the Asserted Claims, cannot be “essential” under the ITU’s Common  
20 Patent Policy for the decoding-only standards. In the Brazilian Action—which Disney  
21 has put at-issue here through its counterclaims and its motion for a preliminary  
22 antisuit injunction—Disney unambiguously concedes that video encoding claims are  
23 **not** covered by the H.264 or H.265 standards. *See* Dkt. 57-17 at 222 (“[T]he H.264  
24 and H.265 standards refer to DECODING, not encoding. This means that the  
25 standards do not require the use of any specific encoding method, and video encoders  
26 have the flexibility to implement different encoding methods.”).

27 Although Disney bemoans the lack of “proper context” for its statements in the  
28 Brazilian Action, Opp. at 11, the quotes from Disney—and its *three* expert

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1 declarations—speak for themselves. *See* Ex. 8 (Zatt Decl.) at 90 (Disney’s expert  
2 admitting that Disney only creates bitstreams compatible with the standards but  
3 offering no opinion that the encoding process is standardized); Ex. 9 (Bermudez  
4 Decl.) at 195 (Disney’s expert admitting “there are no standards for the encoding  
5 process”); Ex. 10 (Novo Decl.) at 308 (“[T]here is no mandatory standardization for  
6 the encoding stage within the ITU-T H.264 and ITU-T H.265 specifications.”).

7 Hoping to shirk its inconsistent statements, Disney incorrectly says the Court  
8 cannot consider them. First, Disney references and relies on the Brazilian Action in its  
9 counterclaims. *See, e.g.*, Counterclaims ¶¶ 50-52, 56, 57, 62. Second, pursuant to  
10 Federal Rule of Evidence 201, the Court can and should take judicial notice of  
11 Disney’s Answer in the Brazilian Action, which was attached in full to InterDigital’s  
12 Response to Disney’s Motion for a Preliminary Injunction (Dkt. 57).<sup>6</sup> Disney’s  
13 Answer to the Brazilian Action is also a matter of public record in a related  
14 proceeding and is not subject to reasonable dispute, meeting the requirements for  
15 judicial notice. *See Residence Mut. Ins. Co. v. Travelers Indem. Co. of Connecticut*, 26  
16 F. Supp. 3d 965, 970 (C.D. Cal. 2014); *see also Crouch v. Ruby Corp.*, 639 F. Supp.  
17 3d 1065, 1073 (S.D. Cal. 2022). And while InterDigital’s motion should be granted  
18 regardless of whether the Court considers these statements, consideration of them is  
19 important to safeguard against Disney’s gamesmanship. *Akrabian v. Veripro Sols.*,  
20 2024 WL 5466644, at \*3 (C.D. Cal. Dec. 3, 2024) (“Taking judicial notice of extrinsic  
21 documents can safeguard against possible gamesmanship by a plaintiff who  
22 strategically omits relevant documents.”).

23  
24  
25  
26  
27 <sup>6</sup> Disney argues that its admissions were based on “an unauthenticated, machine-  
28 translated excerpt” of its filings (Opp. at 10), but InterDigital subsequently provided  
certified translations of the same document. *See* Dkt. 57-17.

1       **III. CONCLUSION**

2           The Court should grant Plaintiffs' Motion to Dismiss Disney's Counterclaims.

3  
4       DATED: May 16, 2025

Respectfully submitted,

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**CERTIFICATE OF COMPLIANCE**

The undersigned, counsel of record for Plaintiffs, certifies that this brief contains 3,671 words, which complies with the word limit set by court order dated February 6, 2025.

Dated: May 16, 2025

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